

**ARIZONA PEACE OFFICER STANDARDS AND TRAINING BOARD
MINUTES OF MEETING HELD SEPTEMBER 15, 2004
PHOENIX, AZ**

A public meeting of the Arizona Peace Officer Standards and Training Board was convened on September 15, 2004, at AZ POST, located at 2643 E. University, Phoenix, AZ.

Members Present:

Chairman Gary Butler
Ms. Lisa Flores
Director Dora Schriro
Sergeant Heriberto Zuniga
Deputy Tamatha Villar
Chief Jerry Sheridan
Chief Patricia Huntsman
Dr. Michael Polakowski
Assistant Director Rod Covey

Members Absent:

Sheriff Clarence Dupnik
Mr. Joseph Duarte
Chief Jack Harris
Ms. Laura Reckart, representing Attorney General Terry Goddard

Staff in Attendance:

Tom Hammarstrom
Lyle Mann
Bob Forry
Gary Maschner
Ted Brandon
Steve Jacobs
Curt Milam
Marie Dryer
Sgt. Rick Watling
Sgt. Crista Capp
Carol Muskus
Lois Sherlock

Counsel for Board in Attendance:

Diana Stabler, Assistant Attorney General

Guest Roster:

Mark A. Wolfe, Parker P.D.
Scott Mascher, NARTA/YCSO

Jan Madeya, ACIP
Joe Cappelli, NARTA/Prescott Valley P.D.
Jerry McCown, GCC LETA
Terry John, NLETA
Mike Bailey, Mesa LETA
Jon Heiden, Arizona Police Corps
Andrew Duncan, Gilbert P.D.
Brenda Kautz, Gilbert P.D.
Eric Hailey, ALEA
Terry Parish, SALETC
Chuck Erickson, Central Arizona Project
Bob Kaecker, Retired Chief of NAU P.D.

A. CALL TO ORDER

Chairman Butler convened the meeting at 1:35 p.m.

B. INTRODUCTIONS

Executive Director Tom Hammarstrom welcomed four new members to the Board: Mr. Joseph Duarte, Office of the Legal Defender; Chief Jack Harris, Phoenix Police Department; Sergeant Heriberto Zuniga, Nogales Police Department; and Chief Patricia Huntsman, Chino Valley Police Department. Dr. Michael Polakowski and Sheriff Gary Butler were re-appointed to the Board, with Sheriff Butler appointed as the new Chairman.

Director Hammarstrom presented Mr. James Garcia with a plaque in appreciation for his outstanding service to the Arizona law enforcement community while serving as a Public Member of the Board for five years, and serving as Chairman for the last two years.

C. CONSENT AGENDA

Approved unanimously, motion made by Chief Sheridan, seconded by Dr. Polakowski.

1. Minutes of the Regular Board meeting, held on July 14, 2004, were approved as written.
2. Minutes of the Charging Board meeting, held on July 14, 2004, were approved as written.
3. Minutes of the Charging Board meeting, held on August 18, 2004, were approved as written.
4. The next scheduled Regular Board meeting is Wednesday, November 10, 2004, 1:30 p.m. at AZ POST, located at 2643 E. University Drive, Phoenix, AZ.

5. Ministerial Actions:

- a. Certification Waivers: The following individual(s) have met the requirements set forth in AZ POST Rule R13-4-110 and have successfully completed the testing process and verification by AZ POST staff. Therefore, upon Board direction, certified peace officer status has been granted to:

James B. Bondley	Mohave County Sheriff's Office
Jesus D. Galaz	Surprise Police Department
Anita F. Loyd	Yavapai College Police Dept.
David M. Leavene	Maricopa County Attorney's Office
Mark P. Mann	Maricopa County Attorney's Office
William J. Masterson	Gila County Sheriff's Office
Rodney Mendoza	Parker Police Department
Russell P. Mike	AZ Department of Revenue
Christopher J. Oskins	Mohave County Sheriff's Office
Troy H. Richardson	Colorado River Indian Tribal Police
Jan E. Rollon, Sr.	Phoenix Police Department
Raymond D. Schultz	Scottsdale Police Department
Dennis L. Shrewsbury	Parker Police Department
Todd W. Trego	Page Police Department

- b. Instructor Certification Renewals: LIST ATTACHED TO MINUTES.

- c. Training Program Confirmations: Agency requests were reviewed by staff and found to comply with Board guidelines. Programs were confirmed as requested. LIST ATTACHED TO MINUTES.

5. Decertification Case Status Report Update – as of August 27, 2004, the Compliance and Standards Unit has a case load of 106 active cases. Six cases are ready for initial presentation; 44 cases need further investigation; 6 cases are pending service of or response to, a Notice of Complaint or Decision; 9 cases are pending hearing; 10 cases are ready to present for final action, and 31 cases are pending outside activity, i.e., a criminal trial or civil service hearing.

6. Income and Expense Statement – July 2004

Funds as of July 1, 2004	\$ 1,965,213.34
CJEF Revenue	498,131.05
Expenditures/Encumbrances	(1,124,092.86)
Balance for July 31, 2004	\$ 1,339,251.53

D. REGULAR AGENDA

1. Petition Concerning the AZ POST Drug Experimentation Rule by the AZ Game and Fish Department for Recruit Applicant Lainie K. Ozment. The AZ Game and Fish Department has petitioned the Board to determine that drug usage by applicant Lainie K. Ozment was experimental. Ms.

Ozment admits that she used the illegal drug Ecstasy on three occasions, two of the uses occurred after the age of 21, but before the age of 22.

AZ POST Rule R13-4-105A.15 states that an applicant shall not have illegally used a dangerous drug or narcotic, other than for experimentation. Under AZ POST Rule R13-4-105B.2, it is presumed to be experimentation if dangerous or narcotic drug use is not more than five times in a lifetime and not more than one time after reaching the age of 21 years. Ms. Ozment's use of Ecstasy exceeds the presumptive amount by one use as the rule applies to experimentation after the age of 21 years.

Assistant Director Covey made a motion to grant the petition for a determination that the pre-employment Ecstasy usage by Lainie K. Ozment was experimental, seconded by Chief Sheridan, motion carried with two nay votes.

2. Review of Recommended Rule Changes for Rulemaking Packet. Deputy Director Lyle Mann explained to the Board that the rulemaking process began over a year ago with the Rules Advisory Committee holding public hearings around to state to gather input and then discuss changes to the rules. The next step in the rulemaking process is the submission of proposed rule changes to the Governor's Regulatory Review Council (GRRC) for a "courtesy" review. This matter will be brought back to the Board for a motion to "open a rulemaking docket" following the GRRC review. At that time the Board will be presented with the exact language for the future rules.

E. LEGISLATIVE UPDATE

No report.

F. SUMMARY OF CURRENT EVENTS

Executive Director Tom Hammarstrom reported that staff has been meeting with the representatives of the Governor's Office for Women and discussing with them POST curricula as they relate to violence against women, and other related topics. POST has made a commitment to perform a review of the basic curriculum and make sure we have the most current information on those topics. A subject matter expert committee will convene to review it. Assistant Director Covey is a member of the Commission on Violence Against Women and reported that this subject was discussed last week at their meeting, and they were very complimentary of POST. Assistant Director Covey also reported that this Commission has offered their assistance to team teach this curriculum at the various academies around the state.

POST is proceeding with the pilot program for computer-based training, which is in partnership with the Federal Law Enforcement Training Center (FLETC) Distributed Learning Program. There are approximately 772 officers enrolled in the program, and the goal is to see whether or not this is an effective training venue. Executive Director Hammarstrom has been invited to the Technical

Public Safety Critical Incidents Response Conference in New Orleans to give a presentation on the topic of the pilot program.

G. COMMITTEE UPDATES

No report.

H. REPORTS

1. Basic Training

ALEA – Commander Hailey reported that currently they have 171 recruits in training, with 30 cadets graduating on September 17th; four classes representing 20 agencies. Commander Hailey is returning to the Phoenix Police Department at the end of the week, and in an agreement with the Arizona Department of Public Safety, Commander Dean Nyhart will be appointed as the new ALEA Commander. Assistant Director Covey and Executive Director Hammarstrom commended Commander Hailey on the excellent job he has done at ALEA.

SALETC – Basic Training Commander Terry Parrish announced that Commander Bill Richards has been reassigned and the new Commander of SALETC is Captain Richard Harper. Currently there are 37 cadets who will be graduating on October 1st. The October 11th class is full with 79 reservations, with the capacity being 72. The February class is also filled with 80 reservations, so a waiting list has been started.

Glendale Community College – Academy Director Jerry McCown reported that there are two classes in session; Class #50 will be graduating December 17th will full certification, Class #51 is a 10 month program and will be graduating in May. In November there will be a bond election for the community college district. If the bond election passes, there will be a dedicated facility for the academy at Glendale. Also, GCC is looking at going into partnership with the City of Glendale on a joint fire/police training facility located in west Glendale. GCC is one of the few academies with an open enrollment program. The open enrollment cadet has not been hired by an agency and pays for their own training. When the cadet graduates they are ready to be hired by an agency. This program saves agencies training time and money and Deputy Director Mann commended Director McCown on his leadership of this very positive and rewarding program.

Mesa Law Enforcement Academy – Commander Mike Bailey reported they are currently between classes, having graduated 17 recruits on September 3rd. The next class will begin October 11th, with 40 cadets.

NARTA – Commander Scott Mascher reported that currently they are in session with 27 recruits representing 13 agencies. This class will graduate in December. NARTA is continuing to supply additional education while recently completing a homicide class taught by the Maricopa County Medical Examiner. NARTA and POST are working on a

Basic Supervision class and a Crime Analysis class. Commander Mascher announced that he is being reassigned to other duties within the Yavapai County Sheriff's Office and will be leaving NARTA. Executive Director Hammarstrom thanked him for the excellent work he has done at NARTA.

COTA – Commander John Hallahan reported that they are pleased to continue to have a partnership with law enforcement. The counties continue to have open enrollment in the training academy. Commander Hallahan commended Director Hammarstrom and his staff for hosting an Academy Director's meeting where they received valuable information. COTA is on track to proceed with a 9 week academy starting October 4th. Currently they have 154 cadets, 6 are from the counties.

CARLOTA – On behalf of Director Sam Weiss, Director Jon Heiden reported that Class #88 began on September 12th with 19 cadets representing 7 agencies. Class #87 is in their fifth week representing 14 agencies.

2. Police Corps

Director Jon Heiden reported that the 6 cadets are in week 13 of the 20 week academy in Utah, and are doing extremely well. They are scheduled to graduate November 12th.

3. Department of Corrections

Director Schriro reported that DOC is still struggling to keep the vacancy rate as low as possible. They are going to be aggressive about pursuing a competitive pay package in the next legislative session.

4. Arizona Regional Community Policing Institute

Executive Director Tom Hammarstrom reported that the Institute is very busy; their training schedule is full. Their staff will be taking a lead role in the training mentioned earlier in the meeting regarding the Governor's Office for Women and the Violence Against Women issues.

I. CASES: Consideration and possible action on the certified status of peace officers.

Case #1 – Elias Avila – Phoenix Police Department. The Board considered comments from Asst. A.G. Diana Stabler. Ms. Flores made a motion to adopt the Findings of Fact and Conclusions of law and deny peace officer certification, seconded by Chief Sheridan, motion carried unanimously.

Case #2 – Gary A. Bluemke's case was moved to the November 10th Board meeting.

Case #3 – Fernando Duarte – Tucson Police Department. The Board considered comments from Asst. A.G. Diana Stabler and Mr. Dale Norris. Chief Sheridan made a motion to adopt the Findings of Fact and Conclusions of Law, seconded by Deputy

Villar, motion carried unanimously. Chief Sheridan made a motion to revoke peace officer certification, seconded by Deputy Villar, motion carried with two nay votes.

Case #4 – Harrison J. Largo – Navajo Department of Public Safety. Deputy Villar made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Ms. Flores, motion carried unanimously.

Case #5 – Christopher P. Mason – Tempe Police Department. The Board considered comments from Asst. A.G. Diana Stabler. Chief Sheridan made a motion to adopt the Consent Agreement, Order and Decision (voluntary relinquishment of peace officer certification), seconded by Chief Huntsman, motion carried unanimously.

Case #6 – Kyle E. McIntosh – Gilbert Police Department. Deputy Villar made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Sgt. Zuniga, motion carried unanimously.

Case #7 – David J. Merwald – Maricopa County Sheriff's Office. *Chief Sheridan recused himself from voting and participation.* Ms. Flores made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Deputy Villar, motion carried unanimously.

Case #8 – Wanda S. Murillo – La Paz County Sheriff's Office. Dr. Polakowski made a motion to adopt the Findings of Fact and Conclusions of Law and revoke peace officer certification, seconded by Chief Sheridan, motion carried unanimously.

Case #9 – Mark A. Wolfe – Parker Police Department. The Board considered comments from Asst. A.G. Diana Stabler and Mr. Wolfe. Assistant Director Covey made a motion to adopt the Findings of Fact and Conclusions of Law and suspend peace officer certification for two years from the date of termination (June 23, 2003 to June 23, 2005), seconded by Deputy Villar, motion carried with one nay vote.

J. CALL TO THE PUBLIC

Ms. Amy Shelton came before the Board to ask for a waiver for drug use (steroids). Chairman Butler suggested that she talk with Asst. A.G. Stabler concerning the proper procedures for this request.

K. ADJOURN

Chairman Butler adjourned the meeting at 3:20 p.m.

Dated September 20, 2004

Lois Sherlock, Recording Secretary